

## **REMARKS**

### **Overview**

Claims 1-13 and 21-27 are pending in this application. Claims 26-30 are new. The present response is an earnest effort to place all claims in proper form for immediate allowance. Reconsideration and passage to issuance is therefore respectfully requested.

### **Rejections Under 35 U.S.C. § 103**

Claims 1-13 and 21-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2002/0010590 to Lee in view of EP 1017 252 A2 to Bybee. These rejections are respectfully traversed.

It is respectfully submitted that the Examiner fails to properly follow 35 U.S.C. § 103 which requires the Examiner to consider the differences between the subject matter sought to be patented and the prior art as well as the subject matter as a whole. Instead, the Examiner parses the language of the claims without regard to the fundamental differences between the claimed subject matter and Lee and Bybee.

The claimed subject matter involves a single device which takes a first language as input and provides a second language as output at the device.

A hearing aid device like Lee does not send out a second language through its speaker to the user. That is not what hearing aids do.

Lee requires two devices for two people in communication. Each device of Lee is first language in and first language out.

Neither reference above or in combination teaches a single device which takes a first language as input and provides a second language as output at the device. Therefore it is

respectfully submitted that it would not have been obvious to combine Bybee and Lee in the alleged manner and that the rejections to claims 1-13 and 21-24 must be withdrawn.

### **New Claims**

Claim 26 is new and is similar to claim 25 in some aspects but does not require multiple microphones. Claim 27 recites that the earpiece includes multiple microphones and that one of the microphones is selected.

New claim 28 recites "A method of voice communication comprising: providing an earpiece having a housing and a plurality of directional microphones within the earpiece housing, the earpiece adapted for being worn by a user; receiving a selection of at least one of the plurality of directional microphones within the housing of the earpiece, the selection associated with a selected voice communication by a person other than the user; receiving the selected voice communication of a first language from the selection of the at least one of the plurality of directional microphones; translating the selected voice communication from the first language to a second language by an intelligent control, the second language different from the first to create a translated voice communication; and transducing the translated voice communication at a speaker within the earpiece unit." Claim 28 is similar to claim 1 but with additional language.

Neither Lee nor Bybee teach "providing an earpiece having a housing and a plurality of directional microphones within the earpiece housing, the earpiece adapted for being worn by a user." It is noted that in FIG. 5 of Bybee, Bybee's hearing aid device is shown as having a directional microphone 23a and an omni microphone 23b, however neither Lee nor Bybee alone or in combination teach multiple directional microphones within an earpiece.

Neither Lee nor Bybee alone or in combination teach "receiving a selection of at least one of the plurality of directional microphones within the housing of the earpiece, the selection associated with a selected voice communication by a person other than the user." First, as previously explained, neither reference alone or in combination teach multiple directional microphones within the housing of an earpiece. Second, neither reference discloses receiving a selection of at least one of a plurality of directional microphones within the housing of an earpiece. It is further noted that Bybee's disclosure of a directional microphone 23a and an omni microphone 23b is consistent with a hearing aid device so that environmental noise detected with the omni microphone 23b may be identified and filtered from sounds received by the directional microphone 23a. This is quite different than the methodology of the claim 28 which recognizes that various people may be speaking in various locations relative to a user of the earpiece and the ability to select one of a plurality of directional microphones allows the user of the earpiece (or the earpiece) to select a particular conversation (or portion thereof) to translate. Thus, the user need not turn their head to towards a speaker engaged in conversation in order to position a microphone and pick up the speaker's speech, instead the plurality of directional microphones allow a user to pick up the speaker's speech for translation more surreptitiously. As explained in the Specification, one of the potential uses of the present invention is in military application such as peacekeeping where it is desirable to listen in on and translate what others are saying without drawing attention to the fact that one is listening and having translated what is being said. Neither Bybee nor Lee address such a problem.

New claim 29 recites "A method of voice communication comprising: providing a nonocclusive earpiece having a housing and having a plurality of directional microphones within the housing and a speaker within the housing, the earpiece adapted for being worn on a user's

head; directing at least one of the plurality of directional microphones within the earpiece housing in a first direction; using the at least one of the plurality of directional microphones of the earpiece to detect a selected voice communication; receiving the selected voice communication of a first language from the at least one of the plurality of directional microphones within the earpiece housing; transmitting the selected voice communication from the earpiece to a translation device using a short range transmitter, the translation device being a mobile computing device; translating the selected voice communication at the translation device from the first language to a second language using a processor disposed within the translation device, the second language different from the first to create a translated voice communication; transmitting the translated voice communication from the translation device to the earpiece using a short range transmitter disposed within the mobile computing device; transducing the translated voice communication at the speaker within the earpiece on the user's head." Claim 29 is similar to claim 12 but with additional language.

Neither Lee nor Bybee disclose a nonocclusive earpiece as provided in the method of claim 29. The Examiner appears to recognize that Lee does not even teach an earpiece. Bybee is directed towards a hearing aid. In the methodology of claim 29, the nonocclusive earpiece would allow a user to hear ambient sounds out of the ear in which the nonocclusive earpiece is positioned, so that the earpiece device used in translation does not interfere with normal hearing from that ear. Since Bybee is directed towards a hearing aid, the same concerns would not be present because presumably there would not be normal hearing from an ear if a hearing aid is being used.

Neither Lee nor Bybee disclose the methodology of claim 29 which uses a translation device which is a mobile computing device which includes a short range transceiver disposed

therein and which communicates with an earpiece in the claimed manner. Thus claim 29 is patentably distinguishable from Lee and Bybee.

Claim 30 is new and is similar to claim 1 but broader in scope and emphasizes that a single device is receiving a first language input and producing a second language output.

## **Conclusion**

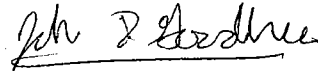
This is a request under the provision of 37 CFR § 1.136(a) to extend the period for filing a response in the above-identified application for one month from July 29, 2010 to August 29, 2010. Applicant is a small entity; therefore, please charge Deposit Account number 26-0084 in the amount of \$60.00 to cover the cost of the one month extension. Any deficiency or overpayment should be charged or credited to Deposit Account 26-0084.

Please also charge Deposit Account No. 26-0084 in the amount of \$460.00 to cover the cost of the 5 newly added claims and 3 new independent claims.

No other fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "John D. Goodhue", written in dark ink.

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